

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

LAREDO DIVISION

UNITED STATES OF AMERICA,) CRIMINAL NO. 5:08-1244-S2
)
vs.) January 26, 2010
)
ARMANDO GARCIA, A.K.A. "CACHETES")
TN:GERARDO CASTILLO-CHAVEZ,)
)
Defendant.)

TRANSCRIPT OF CARLOS ADAN TESTIMONY
BEFORE THE HONORABLE MICAELA ALVAREZ
DISTRICT COURT JUDGE, and a jury

APPEARANCES:

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transcription

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GOVERNMENT WITNESS:

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P-R-O-C-E-E-D-I-N-G-S

CARLOS ADAN, GOVERNMENT WITNESS, SWORN

DIRECT EXAMINATION

BY MR. MORENO:

Q Would you please tell us your full name?

A Sergeant Carlos Adan.

Q Sergeant Adan, where do you work?

A I work with the Laredo Police Department.

Q And how long have you worked for the Laredo Police Department?

A Approximately 18 and 1/2 years.

Q Okay. And can you tell us in what capacity or jobs you have held with the police department?

A I've worked as a patrol officer; an investigator. During my ten years as a investigator, I was with crime scene investigator. And for about approximately 11 years homicide, and now Sergeant.

Q Are you still in the homicide division?

A No, I was reassigned to the patrol division.

Q Okay. Back in June, 8, 2005, which unit were you assigned to?

A With the homicide division.

Q And on that day do you remember being called out for a homicide?

A Yes, sir.

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1 Q Okay. Can you tell us a little bit about, you
2 know, what the call was that you received and where did
3 you respond to?

4 A On that date there was a call by Jeff and Killam a
5 reported shooting. The caller advised of a subject
6 down with handcuffs to the wrist or right wrist.
7 Received multiple shots. They gave a description of
8 vehicles. I believe the one was a pickup, a red Jetta.
9 On our way to the scene, one of the parole officers
10 spotted the red Jetta traveling southbound on 35. They
11 initiated a chase. Subsequently detained two
12 defendants and--.

13 Q Before you get too far ahead of me, you said they
14 spotted the Jetta, and they picked up two people from
15 the Jetta?

16 A They fled from the Jetta and, subsequently,
17 detained the defendants.

18 Q Okay. Who were the two people who were detained?

19 A Gabriel Cardona and Richard Guerrero.

20 Q Okay. Hold on a second here.

21 MR. MORENO: If I may, Your Honor?

22 THE COURT: You may.

23 BY MR. MORENO:

24 Q Let me show you what I've marked as Government
25 Exhibit Number 162 and 164. Do you recognize these?

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1 A Yes, sir.

2 Q Okay. Can you tell us who is depicted in
3 Government Exhibit Number 162?

4 A Gabriel Cardona.

5 Q And on Government Exhibit Number 164?

6 A Richard Guerrero.

7 Q And is that approximately how they appeared back
8 when you saw them in June of 2005?

9 A Yes, sir.

10 MR. MORENO: Your Honor, we'd offer
11 Government Exhibit 164 and 162.

12 MR. BALLI: Without objection.

13 THE COURT: They will be admitted.

14 (Government Exhibit 162 and 164 admitted.)

15 BY MR. MORENO:

16 Q I'm showing you now what has been marked as
17 Government Exhibit Number 162. Okay. This is the
18 individual that you know as Gabriel Cardona?

19 A Yes, sir.

20 Q Okay. And then Government Exhibit Number 164.
21 This is the individual that you know as Richard, is it?

22 A Richard Guerrero.

23 Q Guerrero. Okay. And these are the two
24 individuals that were apprehended after fleeing from
25 the Jetta?

1 A The Jetta. Yes, sir.

2 Q Okay. After they were apprehended, where did you
3 proceed with your investigation?

4 A I stayed at this crime scene. Investigator
5 Garcia, when both subjects were detained, he responded
6 to the police department to subsequently interrogate or
7 interview the defendants.

8 Q Okay. When you say you stayed at the scene, which
9 scene?

10 A That's the crime scene itself where the victim or
11 the murder scene itself.

12 Q Okay. And what did you see when you arrived there
13 at the murder scene?

14 A Of course, it was approximately 2:00 o'clock.
15 There was a working environment. The victim was laying
16 face up. If I recall correctly, he had a white shirt
17 and blue jeans. Had multiple gun shots and a handcuff
18 to the right wrist.

19 Q Okay. Let me show you what was earlier introduced
20 as Government Exhibit Number 14. Let me get you to
21 look at that. Do you recognize that?

22 A Yes, sir. That's the victim Mr. Juarez. Bruno
23 Juarez Orozco.

24 Q Okay. And does that basically reflect how you saw
25 him when you arrived?

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1 A Yes, sir.

2 Q Okay. Had the victim expired by the time that you
3 arrived?

4 A Yes, sir.

5 Q Okay. What did do you next after you arrived at
6 the scene? What else did you see?

7 A We proceeded to interview witnesses that could
8 lead us to or help us solve the case itself.
9 Primarily, the witnesses that described the Jetta. I
10 believe they also described a red pickup and a gold
11 vehicle. I remember that one of them -- I don't recall
12 his name. I think it was Mr. Canales, Canales. But
13 one of them observed that one of the individuals got
14 off the Jetta at the time. They blocked Mr. Bruno's
15 vehicle impersonating a police officer or an
16 undercover. He wasn't in uniform and attempted to
17 handcuff him. Mr. Juarez resisted. One of the
18 defendants exited the vehicle and fired at the victim
19 killing him. And they fled the scene.

20 Q Do you remember whether there were any casings
21 recovered at the scene?

22 A Yes, sir.

23 Q There were approximately how many?

24 A At least eight that I recall.

25 Q Do you recall the caliber of the pistol?

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1 A 223.

2 Q Okay. What kind of a round is that?

3 A It's a high powered rifle. I guess you can say an
4 arm type.

5 Q Okay. You mentioned there was a red Jetta that
6 was spotted and eventually Cardona and Guerrero were
7 arrested in that. Do you recall the vehicle, if I show
8 you a photo of it?

9 A Yes, sir.

10 Q Okay.

11 MR. MORENO: If I may, Your Honor?

12 THE COURT: You may.

13 BY MR. MORENO:

14 Q Let me show you -- well, actually, let me show you
15 what was introduced as Government Exhibit Number 21.

16 Okay. Do you recognize that?

17 A Yes, sir.

18 Q Okay. When you say it was followed, and then they
19 jumped out of the car and you arrested them, exactly
20 where was the Jetta followed to?

21 A To an apartment complex I believe off Scott and
22 Convent area.

23 Q Okay. Is that where the car was located?

24 A Yes, sir.

25 Q Okay. And does that photograph show or depict

1 where it was found?

2 A Yes, sir.

3 Q Okay. You mentioned that they described two other
4 cars, a pickup truck and--.

5 A And I believe Alero.

6 Q Alero?

7 A Oldsmobile.

8 Q Okay. Where were they located?

9 A Off Mines Road, I believe Flecha Lane, if I'm not
10 mistaken.

11 Q Okay. Let me show you first of all what I marked
12 as Government Exhibit Number 15. Do you recognize
13 that?

14 A Yes, sir.

15 Q Okay. Does that fairly and accurately depict the
16 area where you -- that's depicted in the photograph?

17 A Yes, sir.

18 Q Okay. Is it an accurate representation?

19 A Correct.

20 Q Does that show that vehicle where it was located?

21 A Yes, sir.

22 Q And this is a picture of which vehicle?

23 A The gold Alero.

24 Q In fact, you can see the other vehicle also in the
25 photograph, correct?

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1 A Yes, sir.

2 Q Okay. And that will be the--?

3 A The red Dodge.

4 MR. MORENO: Okay. We'd offer
5 Government Exhibit Number 15, Your Honor.

6 THE COURT: Mr. Balli?

7 MR. BALLI: No objection, Your Honor.

8 THE COURT: It's admitted.

9 (Government Exhibit 15 admitted.)

10 BY MR. MORENO:

11 Q All right. Let me show you what's now admitted as
12 Government Exhibit 15. That's the gold Alero that
13 you're describing?

14 A Yes, sir.

15 Q And that would be the--?

16 A The red Dodge.

17 Q The pickup Dodge. Let me show you what was
18 previously introduced as Government Exhibit Number 24.
19 Do you recognize that?

20 A Yes, sir.

21 Q It's a red Dodge?

22 A It's a red Dodge pickup.

23 Q Now you mentioned that you went back and
24 interviewed the witnesses. And then you said at some
25 point recovered the vehicles?

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1 A Yes, sir.

2 Q Okay. What was the process once you identified
3 the vehicles and located them? What did do you? What
4 was done with the vehicles?

5 A A crime scene investigator was called to the
6 location where the vehicles -- they're in charge of
7 photographing the vehicles, picking up the vehicles, or
8 having an officer stand by at all times where it was
9 subsequently taken to the police department. They can
10 process it for fingerprints, DNA, whatever is needed to
11 help on the crime scene.

12 Q Okay. Were there any items recovered from the --
13 first from off the gold Alero -- were there any items
14 recovered from the gold Alero?

15 A Yes, sir. I believe the assault rifle or the 223?

16 MR. MORENO: Okay. May I approach, Your
17 Honor?

18 THE COURT: You may.

19 BY MR. MORENO:

20 Q Let me show you what I marked as Government's
21 Exhibit Number 16, 17, 18, 19, and 20. If you can take
22 a look at all of them here.

23 A Yes, sir.

24 Q Okay. Do you recognize the items depicted in
25 Government Exhibit 16 through 20?

1 A Yes, sir.

2 Q 20 or 21 -- no, 20.

3 A This is a AR-15 with a silencer. It's a close up
4 of the silencer.

5 Q Okay. 19. 15 would be the--?

6 A The AR-15.

7 Q And 17?

8 A Will be the close up of the magazine or the
9 silencer of the AR-15.

10 Q Okay. And Government Exhibit 18?

11 A A document found in the vehicle with the name
12 Gabriel Cardona.

13 Q Okay. And 19?

14 A Other paperwork or items and a cell phone on the
15 other one. And an ID card.

16 Q And a what?

17 A A wallet or ID.

18 Q Okay. And do these -- all these photographs
19 accurately depict the items as you saw them similar to
20 the items that you saw them when they were recovered?

21 A Yes, sir. Yes, sir.

22 MR. MORENO: Your Honor, we would offer
23 Government's Exhibit 16 through 20?

24 MR. BALLI: Without objection.

25 THE COURT: They are admitted.

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(Government's Exhibits 16-20 admitted.)

BY MR. MORENO:

Q I'm showing you what is admitted as Government Exhibit Number 20 -- I'm sorry, 16. And you say this is the AR-15 that was recovered?

A Correct.

Q Okay. And do you know what the caliber of that is?

A 223.

Q Same as the casings that were also recovered?

A Correct.

Q And this is a close up of you said the silencer?

A Yes, sir.

Q Okay. What's the purpose of the silencer?

A To suppress the muscle flash or the power of the AR-15.

Q It basically silences the--.

A Correct, to silence the sound.

Q Then I don't know if you'll be able to read it on your screen, but can you tell us what Government's Exhibit Number 18 is?

A It's paperwork of the bill of sale of the vehicle.

Q Let me ask you first, and then I'll put them up here.

MR. MORENO: If I may, Your Honor?

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1 THE COURT: You may.

2 BY MR. MORENO:

3 Q This is Government Exhibit Number 18. It's a bill
4 of sale. Whose -- it's a bill of sale from where?

5 A From Castellano's Motor Sales.

6 Q Okay. And it's made out in the name of who?

7 A Gabriel Cardona.

8 Q Okay. And Government's Exhibit Number 18 is a
9 picture of what items?

10 A It's a Villar business card, auto sales and
11 receipt for Gabriel Cardona.

12 Q Okay. And the receipt is for how much?

13 A \$3,000.

14 Q Okay. And what's the date of the receipt?

15 A 6/1/05.

16 Q So seven days before the murder?

17 A Correct.

18 Q And the bill of sale, what date?

19 A 6/1/05.

20 THE COURT: Okay. I'm sorry, the bill
21 of sale is what number?

22 MR. MORENO: The bill of sale is
23 Government's Exhibit Number 18, Your Honor.

24 THE COURT: Okay.

25 MR. MORENO: And the receipt is

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1 Government's Exhibit Number 19.

2 THE COURT: Okay.

3 BY MR. MORENO:

4 Q And Government's Exhibit Number 20. I guess,
5 there are several items here. What is the first one?

6 A It looks like a napkin.

7 Q Okay.

8 A A straw wrapper. Looks like some type of ID.
9 Label.

10 Q Label?

11 A Yes. And a cell phone.

12 Q Okay. All right. So this is the -- I don't think
13 it's going to get any better. This is, you said,
14 Government's Exhibit Number 19, a receipt for \$3,000 in
15 the name of Gabriel Cardona dated June 1st?

16 A Yes.

17 Q And then this is the photograph, Government's
18 Exhibit Number 20. You said it's a piece of paper, a
19 straw wrapper, a label, and a cell phone?

20 A Right.

21 Q Okay. Now all these items have sort of -- kind of
22 purplish stains on them. Can you tell us what those
23 are?

24 A Yes, sir. It's called Ninhydrin. It's a spray
25 that you can put on paper, and it will slowly, if

1 there's any type of fingerprints, it will show a
2 fingerprint or ridges or smudges of a fingerprint
3 basically telling you somebody held that paperwork.

4 Q Okay. So it's a process used to develop
5 fingerprints?

6 A Correct.

7 Q And do you know if any fingerprints were developed
8 from either the Alero or items found in the Alero?

9 A I believe they're from the Alero.

10 Q Okay. Were there any items recovered from the red
11 Volkswagen Jetta?

12 A I believe a handcuff key. I don't recall exactly.
13 I know there's the plates, paper plates -- and I don't
14 remember exactly, sir.

15 Q Okay. Let me--.

16 MR. MORENO: If I may, Your Honor?

17 THE COURT: You may.

18 BY MR. MORENO:

19 Q Let me show you what I've marked as Government's
20 Exhibit Number 22 and 23. Can you tell us what
21 Government Exhibit Number 22 is?

22 A A paper plate, sir.

23 Q Okay. And whose name is that?

24 A Gabriel Cardona.

25 Q And Government Exhibit 23 is?

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1 A It's a paper receipt for crossing the bridge.

2 Q And do they, you know, fairly and accurately
3 depict the subject matter contained therein?

4 A Yes.

5 Q Other than, again, the black purplish stain on
6 Government's Exhibit Number 23, does it look in the
7 same or similar condition as when you saw it back in
8 June of '05?

9 A Yes, sir.

10 MR. MORENO: We would offer Government
11 Exhibit Number 22 and 23, Your Honor.

12 THE COURT: Mr. Balli?

13 MR. BALLI: Your Honor, just on one of
14 the exhibits. I would ask to take the witness on voir
15 dire because the item is completely illegible.

16 MR. MORENO: It says exactly what it
17 says right there. 22 is okay?

18 THE COURT: Although he wasn't.

19 MR. BALLI: They're going to be fine.

20 THE COURT: Despite legibility, he was
21 able to identify it so that suffices. That is 22 and
22 23 are admitted.

23 MR. MORENO: Thank you, Your Honor.

24 (Government's Exhibits 22 and 23 admitted.)
25

1 BY MR. MORENO:

2 Q Detective Adan, just to be clear, some of these
3 that are, you know, stained, did you see them before
4 they got that way?

5 A No, sir.

6 Q Hum?

7 A No, sir.

8 Q No. You saw them after they got this way?

9 A Right.

10 Q So Government Exhibit Number 22 you said was a
11 paper license plate?

12 A Yes, for the Jetta.

13 Q For the Jetta. Okay. And, again, you said it was
14 in the name of Gabriel Cardona?

15 A Correct.

16 Q Okay. And then if you can, I know you're not
17 going to be able to make it -- I can't make it any more
18 legible than this. But you said Government Exhibit
19 Number 23 is a picture of what?

20 A A receipt for crossing the bridge.

21 Q Okay. Is it one of our receipts going into Mexico
22 or one of their receipts coming in from Mexico?

23 A Going.

24 Q Going. Okay. And based on your note there, this
25 was for bridge two, lane two on June 4 of 2005?

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1 A Correct.

2 Q At 20:00 hours. What time would that be?

3 A 8:00 p.m.

4 Q 8:00 p.m. And then items from the Dodge pickup
5 truck was anything picked up from there?

6 A I don't recall, sir.

7 Q I'm going to show you a exhibit. And tell me if
8 you remember it. I'm showing you what I've marked as
9 Government Exhibit Number 25. Tell me if you recognize
10 that?

11 A Yes, it's a case for visors or lights, a box.

12 Q Okay. And does that fairly and accurately depict
13 the way it was found in the truck?

14 A Yes, sir.

15 Q Okay.

16 MR. MORENO: We offer Government Exhibit
17 Number 25, Your Honor.

18 THE COURT: Any objection?

19 MR. BALLI: No objection.

20 THE COURT: It's admitted.

21 (Government Exhibit 25 admitted.)

22 BY MR. MORENO:

23 Q So this is just a box, you say, of some visor
24 lights?

25 A Yes, sir.

1 Q Okay. All right. Did you actually find any visor
2 lights?

3 A Subsequently, yes, sir. But not in the truck.

4 Q Okay. Where they were they located?

5 A In the Jetta.

6 Q Okay. And did you find any other items of
7 evidence other than in the cars?

8 A I don't recall, sir.

9 Q Okay. Let me show you what I've marked as
10 Government Exhibit Number 27. Do you recognize that?

11 A Yes, those are the lights from the box.

12 MR. BALLI: No objection, Your Honor.

13 THE COURT: It's admitted.

14 MR. MORENO: We move to admit Government
15 Exhibit 27.

16 THE COURT: It's admitted.

17 (Government Exhibit 27 admitted.)

18 BY MR. MORENO:

19 Q All right. You call them visor lights, why?

20 A You can hide them from your visor. You can pull
21 it down, and you can automatically either -- you can
22 hook them up to the lighter, and they can automatically
23 turn on and off and present like stop lights portraying
24 as a police vehicle and so forth.

25 Q You mentioned earlier that there was a handcuff

1 key that was recovered?

2 A Yes, sir.

3 Q Do you remember from who they recovered that key?

4 A From Gabriel Cardona.

5 Q Okay. Let me show you what I've marked as
6 Government Exhibit Number 28. Do you recognize that?

7 A Yes, it's a handcuff key.

8 Q Okay. Now there's actually two keys in this
9 photograph, correct?

10 A The handcuff key is on the right.

11 Q Okay. And you recognize them basically the way
12 you saw them back then?

13 A Yes, sir.

14 MR. MORENO: We offer Government Exhibit
15 Number 28, Your Honor.

16 MR. BALLI: No objection.

17 THE COURT: 28 is admitted.

18 (Government Exhibit 28 admitted.)

19 BY MR. MORENO:

20 Q So you mentioned that Cardona had in his
21 possession the handcuff key that's on the right here?

22 A Correct.

23 Q What is the second key?

24 A I believe, it's a hotel key.

25 Q Do you remember which hotel?

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1 A La Hacienda.

2 Q Okay. Let me show you what I've marked as
3 Government Exhibit Number 29.

4 MR. BALLI: No objection.

5 THE COURT: Identify it, and then we'll
6 get there.

7 MR. BALLI: No objection.

8 BY MR. MORENO:

9 Q Let me show you what's been marked as Government
10 Exhibit Number 29. Do you recognize that?

11 A Yes, sir.

12 Q Did you -- can tell us whether it's an accurate
13 photocopy of the item you obtained?

14 A Yes, sir.

15 MR. MORENO: Okay. We offer Government
16 Exhibit Number 29.

17 THE COURT: It is admitted without
18 objection.

19 (Government Exhibit 29 admitted.)

20 BY MR. MORENO:

21 Q Okay. Can you tell us what Government Exhibit
22 Number 29 is?

23 A It's a receipt from La Hacienda.

24 Q Okay. And whose name is that?

25 A Wincoslado Tovar.

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1 Q Okay. And along with the receipt, what is this
2 down here on the bottom?

3 A That's Wincoslado Tovar's ID.

4 Q That is also included with the receipt?

5 A Yes, sir.

6 Q And is this for the same room as the key that you
7 found?

8 A Yes, sir.

9 Q So the room is registered to Wincoslado Tovar, but
10 the key was in the possession of Gabriel Cardona?

11 A Correct.

12 Q Where were the other firearms besides the AR-15
13 that you described located?

14 A Located. Yes, sir. Later on we recovered a
15 revolver that was -- we found it because Gabriel
16 Cardona took us to where they had thrown the weapon.
17 And so we recovered the weapon.

18 Q What kind of a weapon?

19 A It's a revolver, sir. It was in pieces.

20 Q Let me show you Government Exhibit 26.

21 A Yes, sir.

22 Q Is that the weapon that you are referring to?

23 A Correct.

24 Q Okay. And you said it's a revolver. Do you
25 remember what kind of revolver?

1 A 357, if I'm not mistaken.

2 MR. MORENO: Okay. And we offer into
3 evidence Government's Exhibit 26.

4 MR. BALLI: No objection.

5 THE COURT: It is admitted.

6 (Government Exhibit 26 admitted.)

7 BY MR. MORENO:

8 Q Okay. You mentioned it's in pieces. Where was it
9 recovered?

10 A Gabriel Cardona backtracked us the route -- they
11 took to 35. And it was the on the way to 35, thrown on
12 the roadway. And that's where we found it, close to
13 the curb.

14 Q All right. You mentioned and we've seen from the
15 exhibits that several of these items were submitted to
16 the department for fingerprint?

17 A Correct.

18 Q And you mentioned that some fingerprints were
19 found in the Alero?

20 A Yes, sir.

21 Q Do you remember if there were any fingerprints
22 found with regards to either the Jetta or items in the
23 Jetta?

24 A I believe so. There was one.

25 Q How about the Dodge Ram?

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1 A Yes, sir.

2 Q Okay. Now when the items were submitted for
3 analysis for the fingerprints, do you recall whether
4 anyone was identified from those fingerprints?

5 A Yes. Wincoslado Tovar was identified and Eric
6 Ivan Martinez.

7 Q Okay. And would you recognize a photograph of
8 them?

9 A Yes.

10 MR. MORENO: May I approach, Your Honor?

11 THE COURT: You may.

12 BY MR. MORENO:

13 Q I'm showing you what I've marked as Government
14 Exhibit Number 161 and 163. Do you recognize these?

15 A Yes, it's Eric Ivan Martinez.

16 Q On what number?

17 A 161.

18 Q Okay. And 163?

19 A It would be Wincoslado Tovar also known as Wincy.

20 Q Also known as--?

21 A Wincy.

22 Q Wincy. Do you know if Eric Ivan Martinez had any
23 other name or nickname?

24 A I believe Cardona referred to him as Cuarenta y
25 siete (47).

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1 Q Okay.

2 MR. MORENO: We offer Government Exhibit
3 161 and 163, Your Honor.

4 THE COURT: Any objection?

5 MR. BALLI: No objection, Your Honor.

6 THE COURT: They are admitted.

7 (Government Exhibits 161 and 163 admitted.)

8 BY MR. MORENO:

9 Q Okay. So for the jury, can you tell us who is in
10 Exhibit 161?

11 A Yes, that's Eric Ivan Martinez or Cuarenta y siete
12 (47).

13 Q And Government Exhibit Number 163?

14 A Wincoslado Tovar. Wincy.

15 Q All right. You mentioned that Cardona himself led
16 you back to the firearm?

17 A Yes, sir.

18 Q Okay. Based on your investigation at that time,
19 besides the four individuals you have mentioned, did
20 you have any other suspects?

21 A Cardona referred to one as to Marine, and he
22 didn't know maybe the names of the other guys.

23 Q Okay. But how many other people?

24 A There was at least--.

25 Q Suspects?

1 A Right. There's at least three more that we have
2 not identified.

3 Q Okay. One you said was called the Marine?

4 A They called him -- what he called the Marine. To
5 this day we don't -- we have not identified him.

6 Q Now there's one cell phone that was on one of the
7 photographs here?

8 A Correct.

9 Q Were there any other cell phones that were
10 recovered?

11 A I don't recall, sir, if there was. I believe
12 there was one more, but I'm not too sure on that.

13 Q Okay.

14 MR. MORENO: Just one moment, Your
15 Honor.

16 BY MR. MORENO:

17 Q Let me show you now what's been marked as
18 Government Exhibit Number 31.

19 MR. MORENO: It's the stipulation with
20 the parties with regards to the analysis of the
21 fingerprints. We would offer Government Exhibit Number
22 31 into evidence.

23 THE COURT: And that is your
24 stipulation, Mr. Balli?

25 MR. BALLI: It's a stipulation, Your

1 Honor.

2 THE COURT: Very well then. That will
3 be admitted.

4 (Government Exhibit 31 admitted.)

5 THE COURT: Ladies and gentlemen, a
6 stipulation is basically an agreement between the
7 government and the defendant as to what certain facts
8 in a case may be. At the conclusion of the trial, when
9 you go to deliberate, I'll give you a little bit more
10 instructions as to the stipulation. But, basically, it
11 is their agreement as to the facts recited therein so
12 that there is no need to call in another witness to
13 testify as to those facts.

14 MR. MORENO: If I may, Your Honor? I
15 would like to read it at this time.

16 THE COURT: You may.

17 MR. MORENO: All right. This is a
18 stipulation between the United States and the defendant
19 Armando Garcia AKA Cachetes true name Gerardo Castillo
20 Chavez and his counsel Roberto Balli who stipulate and
21 agree that if Alberto San Miguel were present in the
22 court and sworn as a witness he would testify
23 substantially as follows:

24 That he's a latent print examiner with the
25 Identification Division at the Laredo Police Department

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1 in Laredo, Texas, that in connection with his official
2 duties he conducts examinations of evidence for the
3 presence of and/or the development of latent prints and
4 compares the latent prints with prints of known
5 individuals which have been forwarded to the
6 Identification Division of the Laredo Police Department
7 by either federal or state law enforcement officers.
8 And that he has extensive experience in identifying
9 fingerprints.

10 He would further testify that the latent
11 prints and the photographed fingerprints were
12 transferred to him, Alberto San Miguel, for analysis
13 and were analyzed by him on the date stated on the
14 attached report. I'll read those to you. That the
15 identification division retained the evidence submitted
16 at the Laredo Police Department. That the results of
17 the forensic analysis of the photographed fingerprints
18 by Alberto San Miguel revealed that the latent prints
19 and photograph fingerprints were identified as
20 belonging to the respective individuals indicated on
21 the attached reports. And that custody of these items
22 is unbroken. It's done today, the 26th of January,
23 2010, and signed by all three parties.

24 The first one -- the first attached report is
25 a report dated February 11, 2007. It states that it is

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1 in the Case Number 05-18343 -- if I may pause here.

2 BY MR. MORENO:

3 Q Mr. Adan, is that the Case Number for this
4 offense?

5 A Yes, sir.

6 MR. MORENO: It was received on
7 February 9, of 2007. And what was submitted was one
8 latent fingerprint card lifted from an open package of
9 some AAA batteries -- fingerprints from a CDR disk. A
10 second set of fingerprints from a second CDR disk. One
11 fingerprint card lifted from a package of a jerky --
12 beef jerky package. Several latent photographs of
13 assorted papers and boxes. And they were compared, and
14 the analysis found by Mr. San Miguel is that the
15 compared latent fingerprints with the known
16 fingerprints of Gabriel Cardona, Richard Guerrero,
17 Wincoslado Tovar, and Eric Ivan Martinez, and the
18 results of the analysis was that one latent fingerprint
19 photographed on item 3(b), which is a price tag that
20 reads BCR-89, authentic sport wear, has been identified
21 as one and the same as the left thumb of suspect
22 Wincoslado Tovar date of birth 7/14/85. And that they
23 retained the evidence for these proceedings.

24 If I may, Your Honor.
25

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1 BY MR. MORENO:

2 Q Mr. Adan, do you know if on Government Exhibit
3 Number 20, is that the same item that's described by
4 Mr. San Miguel as BCR-89, authentic sport's wear label?

5 A Yes, sir.

6 Q That's what he's referring to when he refers to
7 having located a fingerprint on that item?

8 A Yes.

9 MR. MORENO: The second report is also
10 dated February 11, 2007. Same case number also
11 received on February, 9, 2007, from the same items that
12 were submitted earlier. He compared them with the same
13 individuals Gabriel Cardona, Richard Guerrero,
14 Wincoslado Tovar, and Eric I. Martinez. He's got three
15 latent prints photographs from item 7A, which he
16 describes as an empty rectangular box with the word
17 "alerte" and LED visor 88, and has been identified as
18 one the same as the left middle finger of suspect Eric
19 Ivan Martinez with date of birth 11/26/79.

20 BY MR. MORENO:

21 Q Detective Adan, is that the same box that you
22 found in the Dodge Ram?

23 A Yes.

24 Q Okay.

25 MR. MORENO: And one latent fingerprint

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1 photograph of item one, which he the describes as a
2 Wendy's paper bag has been identified as one of the
3 same as the left ring finger of suspect Eric Ivan
4 Martinez date of birth 11/26/79. And that he retained
5 all the evidence for further proceedings.

6 The third is a report dated June 17, 2005.
7 it's the same case number in relation to the Oldsmobile
8 Alero four door gold in color. Dated -- they're
9 submitted on June 9, 2005. They're two latent
10 fingerprint lift pump cards. They compared the latent
11 pump cards with the known ink fingerprints of
12 Wincoslado Tovar. And his results of his analysis was
13 that the first latent card labeled exterior of driver's
14 door of 2002 Olds Alero top door frame or one in the
15 same as the right middle finger and the right ring
16 fingers of the suspect Wincoslado Tovar date of birth
17 7/14/85. Second latent print card labeled top of
18 trunk, exterior right side of 2002 Olds Alero four door
19 gold color is one and the same as the right middle
20 finger and right ring finger of suspect Wincoslado
21 Tovar date of birth 7/14/85. And they maintained all
22 the all that evidence for further proceedings.

23 The next one is dated July 18, 2005, in
24 reference to the Volkswagen Jetta with paper plates
25 dated and received on June 9, 2005. Two latent

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1 fingerprint cards that he compared with the latent
2 print -- fingerprint cards with known ink fingerprint
3 cards of suspect Wincoslado Tovar. The results of this
4 analysis was that one latent fingerprint card, number
5 1(b) labeled sun roof area outside passenger side of
6 red VW Jetta, is one and the same as the right ring
7 finger of suspect Wincoslado Tovar. And the second
8 latent fingerprint card, labeled outside driver side
9 rear quarter panel, is one and the same as the right
10 palm of suspect Wincoslado Tovar date of birth 7/14/85.
11 And that he retained the evidence for further
12 proceedings.

13 And the last one is July 18 -- dated July 18,
14 2005, in reference to the Oldsmobile Alero four door
15 gold in color. It was submitted on June 9, 2005. One
16 latent lift palm card. He compared the latent
17 fingerprint cards with the known ink fingerprint cards,
18 again, of Wincoslado Tovar. And he found as a result
19 of his analysis that one latent fingerprint card
20 labeled right rear passenger door exterior side of 2002
21 Olds Alero four door gold in color is one and the same
22 as the left thumb of suspect Wincoslado Tovar date of
23 7/14/85. And that he retained the evidence for further
24 proceedings.

25 Thank you, Your Honor. That's all I have for

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1 this witness at this time, Your Honor. We pass him.

2 THE COURT: Thank you. Mr. Balli.

3 CROSS-EXAMINATION

4 BY MR. BALLI:

5 Q Sergeant Adan?

6 A Yes, sir.

7 Q Fingerprint evidence in cases like this can be
8 very important evidence, can it not?

9 A Correct.

10 Q And the reason that it's important is because
11 somebody can tell you that they have never been, for
12 example, in an automobile. And if you lift a
13 fingerprint from the automobile, then that evidence
14 would tell you something different from what the
15 witness is telling you, correct?

16 A I don't quite understand your question.

17 Q You could have a witness deny ever being inside of
18 an automobile?

19 A Correct.

20 Q And you could lift a print of that same witness or
21 suspect from that automobile -- the interior of that
22 automobile?

23 A It's a possibility, yes, sir.

24 Q And that would tell you that at some point that
25 person had been inside vehicle, correct?

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1 A Correct.

2 Q And that would be something that if you got to
3 interview that witness you could confront them with,
4 correct?

5 A Correct.

6 Q And you could confront them with the fact that you
7 have lifted their print, and you know that they were
8 inside that vehicle. And you can ask for them to give
9 you more information, or you can have some question to
10 ask about that, correct?

11 A Correct.

12 Q And they might at that point make an admission
13 that could later lead to more admissions and eventually
14 a confession that could lead to an arrest, correct?

15 A Yes, sir.

16 Q In this particular case, fingerprints were lifted?

17 A Correct.

18 Q And of all of the fingerprints lifted, isn't it
19 true that none of the fingerprints lifted matched my
20 client's fingerprints?

21 A The prints that were identified were not of your
22 client's.

23 Q And as a matter of fact, in this case, part of the
24 reason that this case was so good for the police
25 department in the sense of being able to make arrests

1 and prosecutions was the fact that Gabriel Cardona
2 confessed, correct?

3 A That was part it. Yes, sir.

4 Q And that was a very important piece of evidence,
5 correct?

6 A Correct.

7 Q And you also had a second confession, correct?

8 A Correct.

9 Q And that was the confession of Richard Guerrero,
10 correct?

11 A Correct.

12 Q And that was also another very strong piece of
13 evidence against both of them?

14 A Correct.

15 Q And against the other individuals involved,
16 correct?

17 A The fugitives that we haven't been able to -- yes,
18 sir.

19 Q And as far as you know and as far as any evidence
20 that you collected or that you know about or through
21 confessions, do you have any evidence or you don't have
22 any evidence that my client Gerardo Castillo was
23 involved in that particular shooting?

24 A I don't have enough evidence that either can deny
25 or -- that your client was involved or was not involved

1 in the murder.

2 Q So you don't have any evidence that he was
3 involved? You don't have any evidence that he wasn't
4 involved?

5 A Correct.

6 Q And you have never attempted to make an arrest or
7 get a warrant for arrest for my client, have you --
8 related to that particular murder?

9 A To that murder, no. Not yet, sir.

10 Q You gathered 89 pieces of evidence?

11 A That was I believe 89 pieces of evidence. Not
12 directly by myself, but they were recovered. Yes, sir.

13 Q That they were recovered as part of this
14 investigation?

15 A Correct.

16 Q And of the 89 pieces of evidence that you
17 gathered, do any -- isn't it true that none of the
18 pieces of evidence have any link that you know of to my
19 client Gerardo Castillo?

20 A No, sir. Not yet.

21 MR. BALLI: Pass the witness.

22 THE COURT: Mr. Moreno, anything
23 further?

24 MR. MORENO: No, Your Honor.

25 THE COURT: Thank you. Thank you. You

1 may step down.

2 THE WITNESS: Thank you.

3 (End of testimony.)

4 CERTIFICATE

5 I, Leticia O. Gomez, Official Court Reporter,
6 certify that the foregoing is a correct transcript from the
7 record of the proceedings in the above-entitled matter.

8 WITNESS MY OFFICIAL HAND, this 16th day of
9 February, 2010.

10
11 /S/LETICIA GOMEZ
12 Leticia O. Gomez
13 CSR: 4767
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